Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of) Implementation of Section 621(a)(1) of) The Cable Communications Policy Act) Of 1984 as Amended by the Cable) Television Consumer Protection and) Competition Act of 1992)	MB Docket No. 05-311

COMMENTS OF CALIFORNIA ALLIANCE FOR CONSUMER PROTECTION

I. INTRODUCTION

The California Alliance for Consumer Protection is membership organization which represents millions of California consumers and supports policies that promote competition in a variety of industries and services. The Alliance believes that consumers are best served by competitive markets, which yield lower prices and more innovative products.

The Alliance is also a member of Consumers for Cable Choice (C4CC),[1] a national coalition of consumer organizations and individuals. C4CC and its members support policies that will open the cable and video services market to robust competition. Franchise reform, as discussed by C4CC in its comments to the Commission and in other work, is the best and most efficient solution for expediting the arrival of new cable providers in the local market. As one of the approximately 40 national groups who are part of C4CC, the California Alliance for Consumer Protection believes a pro-consumer regulatory framework that opens the video service market to competition is the best option for accelerating deployment of broadband and other advanced communications services.

As the Commission embarks on a review of the local franchise process, the Alliance offers these comments supporting a new approach to local cable regulation. Reform of the franchise process through elimination of the outdated rules that are currently impeding competition will benefit the consumers that the Alliance represents. New providers are ready to enter the market with advanced technologies, such as fiber to the home. These

[1] Consumers for Cable Choice, Inc. is a not-for-profit corporation formed under Section 501(c)(4) of the Internal Revenue Code.

advanced networks can deliver amazing services and applications that consumers want. With franchise reform, we believe competition will thrive in the cable market, which for too long has been an unfriendly environment for consumers.

The average American consumer is currently deprived of the benefits of cable competition. Franchise rules, created in an era where there was only one viable provider, are hindering the entry of new players. Obtaining a franchise is a burdensome process, sometimes taking years. If the new competitors are forced to obtain franchises under the old rules in the thousands of communities across the country, then true competition for cable services could be delayed for an unacceptable amount of time.

If the franchising debate drags out in state legislatures and Congress, American consumers will lose billions in potential savings. According to a Phoenix Center report, every year that franchise reform and competitive entry are delayed, the lost consumer surplus is $8.2 billion, which translates to an average loss of $75 for every household.[2]

The Commission has an important opportunity to help all American cable consumers and the Alliance supports the efforts to streamline the franchise process. Too long have cable prices grown exponentially. In addition, the lack of choice among cable providers gives consumers no alternatives. These facts alone call for Commission action. Cable statutes give the Commission the authority and the mandate to reform the franchise process so that consumers can reap the benefits of greater competition in the video market.

II. CONSUMERS FACE UNACCEPTABLY HIGH PRICES FOR CABLE SERVICE. FRANCHISE REFORM IS THE FIRST STEP TO LOWERING PRICES THROUGH COMPETITION.

The cable monopoly has for years raised prices and made large profits at the expense of the consumer. Without greater competition, prices will continue to rise. Since 1996, cable rates have gone up by over 50%.[3] Annually, there are calls in Washington D.C. and from consumer advocacy groups to take action on out of control cable rates. Last year, communities such as San Francisco, California witnessed cable rate increases of over 10%.[4]

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[2] Ford, George S. and Koutsky, Thomas M. "In Delay There is No Plenty: The Consumer Welfare Cost of Franchise Reform Delay." Phoenix Center Policy Bulletin No. 13, January 2006.

[3] Report on 2004 Cable Industry Prices

[4] See Testimony of Robert Johnson before Communications, Technology and Interstate Commerce Committee of the National Conference of State Legislatures, November 2005. http://www.consumers4choice.org/site/DocServer/Johnson.pdf?docID=361

The Alliance supports the lowering of cable rates, because consumers have been fleeced at every turn.

If the current monopoly situation were alleviated through franchise reform and
competitive entry, it is highly likely that consumers will have the chance to pay lower monthly prices for cable service. In 2005, the Commission found that in communities with cable competition, average cable rates for basic and expanded services were 15.7% lower than in communities with no competition.[5] We are seeing real world examples of these lower prices. Cable competition has begun in several communities with the deployment of fiber to the home services. In three cities where Verizon's FIOS service is available, the incumbent cable provider lowered their prices to comparable levels with Verizon.[6]

The consumers that the Alliance represents will benefit from increased video competition and broadband deployment in a number of ways. The entry of new providers will bring innovation and greater choice. The incumbent cable companies and the competitors will have to unveil new services to attract new customers. Technology, particularly the next generation applications like telemedicine and telework, could reach large portions of the population much faster.

Better cable services and lower prices are the ultimate goals of franchise reform. It is a win-win for consumers. But it will take real action from policymakers at all levels. The Commission can jumpstart the process and help consumers nationwide by taking the lead on franchise reform now.

III. UNDER CURRENT STATUTES, THE COMMISSION CAN INITIATE FRANCHISE REFORM

The Commission should use the authority granted by Congress to enter the franchising debate. The NPRM is a good first step, but this inquiry must be followed by concrete policy actions that speed the arrival of cable competition. The Commission should not remain inactive on this issue because of perceived uncertainty about the legal authority to intervene.

We believe that the Commission is on sound legal footing with regard to franchise reform. The history of cable law in this country shows that Congress wanted consumers to have the greatest array of options for video service. They did not set out to codify a monopoly in the local cable market. The guiding law on cable, Title 6 of the Communications Act, contains

5 Report on Cable Industry Prices, FCC Rcd 2718, 2721, at 12 (2005).

6 Banc of America Securities estimates.

explicit provisions that offer authority for Commission action in the franchise reform process. Section 621 of the Communications Act of 1934 states that a local franchise authority "may not unreasonably refuse to award an additional competitive franchise."[7]

The Commission could use this language to encourage local authorities to quickly negotiate franchises that are not overly burdened with unreachable requirements for new entrants. Forcing the new video players to meet some of the old mandates for service would be counterproductive for competition and would not help consumers. In seeking to promote innovative policy solutions, the Commission could outline a modified franchise arrangement where the provider and the locality begin negotiations, but if an agreement cannot be reached within a reasonable period of time, the franchise process is moved to the state level.

The Alliance does believe the Commission's franchise reform efforts should ensure the continuation of franchise fees. These revenues streams are important for communities and consumers. There should be compensation to consumers for the use of their rights of way. In addition, franchise fees help fund services consumers enjoy, such as public access channels. It is appropriate for both competitive and incumbent cable providers to pay equivalent franchise fees.

IV. CONCLUSION

The Alliance believes that franchise reform can offer a host of benefits to the American consumer and should be a policy priority for the Commission. With evidence that cable competition has benefited consumers in the past and the legal authority to provide solutions for franchising, the Commission has sufficient justification for entering this critical debate.

Improving consumer access to communications services is one of the key goals for the Commission. New video applications that consumers want are available. It is up to the Commission to help bridge the gaps that currently exist between providers of new cable services and consumers who desire new choices. Current franchising regulations are holding back both consumers and providers.

The California Alliance for Consumer Protection strongly urges the Commission to take this opportunity to help consumers in thousands of communities obtain access to the new video and broadband revolution.

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[7] 47 U.S.C. § 541(a)(1).

Respectfully submitted,

Mike C. Ross
President

February 13, 2006